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# REVENUE BILL OF 1918

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SPEECH

OF

HON. BOIES PENROSE

OF PENNSYLVANIA

IN THE

SENATE OF THE UNITED STATES

DECEMBER 17, 1918



WASHINGTON

1918

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OF  
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THE REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12863) to provide revenue, and for other purposes.

Mr. PENROSE. Mr. President, the minority of the Finance Committee of the Senate, with one exception, have signed a report on the pending revenue bill reciting their objections to it. That report has been filed but has never been read to the Senate. It is short, and I should like the Secretary to read it.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

Mr. PENROSE (for himself, Mr. LODGE, Mr. McCUMBER, Mr. SMOOT, Mr. TOWNSEND, and Mr. DILLINGHAM), from the Committee on Finance, submitted the following views of a minority, to accompany H. R. 12863:

The undersigned minority members of the Committee on Finance feel constrained to withhold their support from the provisions recommended by the majority, having for their purpose the arbitrary fixing of rates for taxes to be collected mainly in 1920 to the estimated extent of \$4,250,000,000.

With respect to those provisions of the bill as amended by the committee, which, it is estimated, will produce \$6,000,000,000 revenue for a full 12-months period, we are generally in accord. These provisions are the result of months of painstaking deliberation and are based upon as accurate and reliable expert information as it was possible to obtain through every agency, official and other. They reflect actual business, industrial, and economic conditions now believed to exist, taking into consideration the rapid transition during the year from the maximum war-needs production to the sudden cessation of hostilities and the arrest of war industry.

Difficult as was the committee's task, its conclusions as to just and proper bases of taxation upon current-year conditions were, at least, approximately definite and consonant with known facts. We, therefore, were enabled by patient consideration to apply the new and increased taxes in a way to harmonize, so far as practicable, with existing economic, financial, and industrial conditions, and at the same time to provide all the revenue that revised estimates of the Treasury Department indicated as necessary in view of the signing of the armistice, namely, \$6,000,000,000, or \$2,000,000,000 less than was estimated the bill carried when it came to the Senate. The fact that rapidly changing conditions, while the bill was under consideration in the Committee on Finance, enabled the committee to reduce the amount of taxes \$2,000,000,000 furnishes a forcible illustra-

tion of the importance of legislating on the subject of taxation, so vital to the country, with the utmost care and in the light of ascertained conditions. It further demonstrates how unwise is the policy of haste and the anticipation of future needs at a time when radical changes in domestic and world conditions render to-day's conclusions perhaps worthless to-morrow.

We recall that it was insisted in July and August, last, that the revenue bill, not even then prepared, should become a law not later than September 28. Disaster to the fourth liberty loan was predicted and apprehension was expressed as to the inability of the Secretary of the Treasury to market short-time certificates if the bill were not on the statute books by that date. These predictions, fortunately, were unfulfilled. The Secretary experienced no difficulty in placing short-time certificates and the fourth liberty loan was oversubscribed. The country was not affected by lack of knowledge in advance as to the extent and methods of taxation, but went ahead and met each situation as it arose.

Who now will claim that Congress was not justified or lacked wisdom in deliberating upon this, the greatest of all tax bills in history? The fact alone that changed conditions made possible a reduction of \$2,000,000,000 in the interest of the taxpayers justifies the care and scrutiny given the bill by those charged with the constitutional duty of framing it.

In the light, therefore, of this recent valuable experience and object lesson it would be entirely without justification to attempt to prescribe for the American people what amount of taxes they shall be called upon to pay in the year 1920. We can not fail to be impressed with the many difficulties encountered, even with every possible aid, in levying just taxes for the current year; and to undertake to project ourselves into the future, so filled with portentous changes, and arbitrarily and rigidly to fix taxes for the year 1920 is in violation of every sound principle of legislative procedure, and economically is fallacious and unsound.

No one can foresee the full course of events which will crowd the intervening months, and no one with any degree of definiteness can estimate the Government's needs or the country's industrial prosperity. Sources of revenue not now tapped may be made to yield a just portion, thus relieving other sources from onerous taxation. Who can foresee clearly results from the readjustment and reconstruction program inevitably impending and bound to follow the return of peace? Both capital and labor are vitally interested in these readjustments and will be affected by them in a way that can not be foretold. The problem of the high cost of living is not the least of those awaiting attention, and a wise and carefully considered economic policy must be framed at the proper time with full information as to the facts. Care must be exercised not to disarrange our industrial system in a way which will render either capital or labor less employed in profitable pursuits than at the present time. A sound policy demands that no legislation shall be enacted which will suddenly or unwisely disturb values and prices. Vast governmental undertakings and agencies, made necessary by the war, must come in for a large share of consideration as to the policy to be adopted with respect to those activities in

the future, thus presenting the most difficult domestic problems ever confronted by this Nation.

No program for the near or even distant future has been evolved—nothing but the merest outlines, suggestions, and preliminaries—and yet, on the threshold of these nebulous conditions, it is proposed to lay down a hard and fast scheme of taxation for the future. The only argument advanced in behalf of this extraordinary proposition to fix arbitrarily the rates of taxation in the present bill for the year 1920 is that the taxpayers are entitled to know the amount of reduction in taxes and the character of the taxes for that year. It does not seem to the minority that this argument furnishes any justification for violating the methods of orderly legislative procedure. Every taxpayer in the country knows that taxes will be reduced after this year as the inevitable result of a reduction in governmental needs following the declaration of peace. Every business man knows the next Congress can enact a revenue measure, based on accurate information as to the then existing conditions, which will reduce the burdens of taxation so far as the requirements of the Government will permit. Why, then, attempt to do so in this bill with no knowledge of future conditions and needs?

As a 1918 measure the undersigned minority members of the committee concur in the reporting of the bill, but the measure should stand essentially as a 1918 measure, and the many changes which will be necessary to adapt the tax law to conditions found to obtain in 1919, and subsequent years, should follow and be made at one time and in the light of as full information as it will be possible to obtain.

BOIES PENROSE.  
H. C. LODGE.  
P. J. McCUMBER.  
REED SMOOT.  
CHAS. E. TOWNSEND.  
WM. P. DILLINGHAM.

Mr. PENROSE. Mr. President, I perhaps conveyed a wrong impression when I stated to the Senate that this minority report was signed by all the members of the minority, with one exception. I ought to say that the minority were unanimous in dissenting from the attempt to fix the 1920 taxes in this bill. The senior Senator from Wisconsin [Mr. LA FOLLETTE] refrained from joining in the minority report because of the fact that he objected to the general plan of taxation contained in the bill, in which the other members of the minority, realizing the limitations under which the present Congress is acting, were willing in a general way to concur. I think it only fair to state this, because it shows a unanimity of protest. I desire to quote from the views filed by the senior Senator from Wisconsin, in which he says:

I concur fully with the minority report of the Committee on Finance in withholding support from the provisions recommended by the majority, having for their purpose the arbitrary fixing of rates of taxation to be collected in 1920. In the confusion and chaos resulting from the sudden termination of the war, neither the needs of the Government nor the sources of its income for 1920 can be more than wildly approximated at this time, and, in my opinion, no sound reason for this proposed legislation has ever been given.

Then he goes on to say—and it explains why he did not sign the report—

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I dissent, however, from so much of the report of the minority members of the Finance Committee as concurs with the majority in proposing to raise by taxation under this bill only \$6,000,000,000 or even less than that amount for the taxable year, and which in consequence permits war profits and excessive incomes to escape fair and reasonable taxation.

Then he proceeds in his report to outline his views on a scheme of taxation which would meet his approval.

Mr. President, as the Senate has now reached the point in the bill where there is a sharp divergence of opinion between the united minority and majority of the Finance Committee, I shall take advantage of the opportunity to present briefly some of my views upon the pending measure.

#### NO OPPOSITION TO ESSENTIAL WAR REVENUE LEGISLATION.

This bill comes up for enactment after peace has been won, a victorious peace, gained in no small part through the determination, resources, sacrifices, and valor of the people of the United States. The great financial task of our country is still, however, to meet the cost of the war, and it is as a war measure that this bill primarily is to be judged. It is because the bill is essentially a war measure that I am willing to support it, although dissenting from the special 1920 provisions, and only accepting many other provisions because I realize that the bill is, perhaps, the best that can be had under existing limitations. To raise by taxation, principally upon the incomes of the people and the industries of the country for the past year, about \$6,000,000,000—nearly six times the prewar income of our country from all sources—is justified only by the staggering expenditures in the great cause, and can be sanctioned only by the patriotic spirit of our people.

The report of the majority of the Finance Committee, and the address of the Senator from North Carolina, the Chairman of the committee, furnish a detailed explanation of the measure which I need not duplicate or amplify. I shall confine my remarks to a brief statement of some of the salient features, an understanding of which seems to me essential for the consideration of the bill, in its present form, by the Senate and by the country. I know the measure is far from perfect, and I also recognize the difficulties which have been encountered. Yielding to the consensus of opinion of the majority in the committee and having aided so far as I could to eliminate objectionable features, and to support a large number of amendments of great importance, which have been adopted, I trust the bill will pass at as early a date as may be consistent with full consideration and discussion. In stating this I believe I am also voicing the patriotic sentiment of the country, which recognizes the needs of the hour and is willing to make the sacrifice.

#### PRIMARILY A WAR MEASURE.

The pending bill primarily is a war measure. It is the largest tax bill in the history of modern countries. It reaches the highest mark of taxation, and it is hoped and expected that subsequent measures will amend errors and omissions in the present bill and will provide a steady reduction of taxes as the affairs of the country are readjusted, and retrenchment, curtailment, and economy diminish the requirements of the Government. While the war is over, it must not be imagined that expenditures can drop instantly to a peace footing. One great



item of expense, the maintenance and pay of the armies in the field, must remain for some time, however rapidly the troops are brought back. We can not consider ourselves fairly upon a peace basis until peace shall have been declared and demobilization accomplished.

#### EXHAUSTIVE CONSIDERATION OF BILL IN COMMITTEES.

The bill has had exhaustive consideration in the committees of the House and Senate for a period extending over several months. Hearings have been had, and information has been received from official experts and from communications from taxpayers, fully reciting their views. I take this opportunity to commend the spirit of patriotism, free from any taint of partisanship, which prevailed in the Committee on Finance during the consideration of the bill. In the deliberations of this committee which, frequently in the history of the country, has been the center of political strife waged over economic questions, only one purpose seemed to prevail, and that was to raise the taxes required for the needs of the Government by methods fair and equitable. I should also like to say that a similar spirit obtained among the taxpayers who appeared before the committee, or saw the members thereof in personal interviews. I do not recall a single important case where exemption from taxation was requested for any section or industry. The single desire on the part of the taxpayers seemed to be that the taxes should be levied along lines fair, equitable, and sound from an economic point of view. Further than that no claim was raised.

#### TAX ADVISORY BOARD.

In the act of 1917 many glaring inconsistencies and omissions exist. A large number of these defects were cured by the rulings and constructions of the Tax Advisory Board created and supported by the Secretary of the Treasury and the Commissioner of Internal Revenue, and I take this opportunity to express my appreciation of the invaluable work accomplished in this connection by the board. Its rulings and constructions have been sane, wise, and courageous, and have resulted, in my opinion, in preventing many disastrous results which might have followed from the act of 1917 had the board not undertaken to interpret the act on broad and equitable lines. The remarkable feature about the board has been its lack of legal power to determine finally taxes or constructions. Its power has been entirely of a recommendatory character, and I do not know of any case of importance where its decisions have been overruled. The taxpayer has had the privilege of appealing directly to the board and, on the whole, I recall few bureaus of the Treasury Department which have administered such trying and arduous duties more effectively. The board has been retained in the present bill, and it is worthy of note that it has been the deliberate purpose to refrain from bestowing any actual power upon the board beyond that of recommendation, the thought being that it can perform its duties most effectively and retain the confidence of Government officials and taxpayers more firmly by continuing its powers as purely recommendatory.

#### CODIFICATION OF TAX LAWS.

I have referred to the many defects in the present law which have been partially remedied by rulings of the Treasury De-

partment, and which have been more fully and definitely corrected in the pending bill by the excellent amendments made by the Committee on Finance. I think it well to call particular attention, in passing, to a very confusing defect in the present law which has been corrected in the pending bill. I refer to the very objectionable feature of the 1917 legislation in that the income tax was left spread through two statutes. This made it difficult for the taxpayer to find out what his rights and obligations were. In the present bill these taxes have been put in a single statute. It was most confusing to the taxpayer to be confronted with this independent extension of additional taxes running all through the law of 1917, including excess-profits taxes. The present measure is a complete codification of the tax laws, so far as concerns the internal-revenue system. In other words, the existing law is now codified and reenacted with the additional increased taxes and amendments, so that the old law is, for all practical purposes, to be disregarded except in so far as the few paragraphs relating to the Tariff Commission, a protective tariff on dyestuffs, and a few other paragraphs are concerned. It is needless to say, however, that the present law will still continue to affect cases pending.

#### IMPORTANT TREASURY DECISIONS EMBODIED IN AMENDMENTS.

I have referred to the very excellent work done by the Tax Advisory Board in construing the present law, and I am glad to be able to say that most of the important Treasury decisions construing the present law have been embodied in amendments, while many new provisions have been made to relieve the taxpayer from discrimination and inequality. In some instances these relief provisions have been especially designed to secure maximum of production in articles considered essential in the present emergency.

Mr. SIMMONS. Mr. President, if the Senator will pardon me right in that connection, I should like to say, so that it may be understood by the Senate, that while we have made no change in the House rates in the income tax and none in the excess-profits tax and surtax, except a slight reduction in the excess-profits tax for 1919 and some modifications in the surtax schedule only slightly affecting the revenue, yet we have, through the amendments the Senator is now speaking about, very materially reduced the income of the Government from those taxes. Whatever substantial deductions have been made in the income and profits taxes for 1919 have been made through the so-called ameliorative or relief measures to which the Senator is now referring, and which were adopted by the committee in order to remove the hardships growing out of a rigid enforcement of the definition of invested capital as it is found in the present law and the pending bill.

Mr. PENROSE. Mr. President, I am glad the chairman of the committee has illuminated the subject by his interruption, because there is some misapprehension as to the character of these relief provisions. I take it that in some cases they have resulted in a reduction of revenue, and in some particular cases in a very large reduction; but such revenue has been made up elsewhere, and we were very fortunate in being confronted later on with a situation where we could reduce the revenue and still meet the requirements of the Secretary of the Treasury.



Mr. SIMMONS. And the reductions have been made in a spirit of fairness and justness to the taxpayer.

Mr. PENROSE. Yes; and, Mr. President, the fact that it reduced the revenue never was an argument, to my mind, against adopting a provision to prevent injustice or inequality, or in favor of levying a tax on one man who, perchance, has an undercapitalized concern with his good will left out, on one side of the street, and another man, with his good will capitalized at an enormous figure, on the other side of the street, one paying heavy taxes and the other going scot free. Neither has it persuaded me, Mr. President, that revenue might be lost if the amendment were adopted by which the Government would not impose a tax on the taxpayer when at the end of the year he had incurred a loss instead of a profit. The Government can devise many ways of imposing taxes without taxing the bankrupt, or without framing a tax system so full of hardship and inequality that men wonder what kind of reasoning the Congress adopted to devise such a scheme.

In fact, Mr. President, on the point suggested, the general impression prevailed in the committee that these amendments were of very great and particular importance at the present time. The taxes heretofore have been so very much lower that inequality, while it might work injustice, could perhaps be borne by the taxpayer in a war measure, but when we were confronted by the provisions of a bill raising enormous revenues by taxes higher than were ever dreamed of in this country, and considerably higher, in most instances, than those prevailing in any other country, it became very evident that it was absolutely necessary to amend the bill wherever possible by carefully prepared amendments which would meet many complicated contingencies and avoid gross inequality, inequity, and, perhaps, disastrous financial results.

#### DIRECT AND INDIRECT TAXATION.

Direct taxation is comparatively new in the United States. Until within the last few years, whatever fiscal policy may have prevailed in the country, the bulk of the revenue was raised from the customhouse and by certain recognized and established internal revenue taxes, chiefly on liquor and tobacco. Later on, in 1909, the revenues were supplemented by excise taxes, followed by a small income tax in 1913. It was only in 1916 and 1917, however, that the Government of the United States undertook to raise by direct taxes—I mean taxes upon income, personal and corporate—any great portion of its revenue. Our experience with this system of taxation is therefore brief. Some assistance in solving the intricate problems which such a system involves is to be derived from England, where income taxes have been long established. No country, however, has experienced the repressive effect of rates as high as those in this bill. No European country has to meet in this field the same problems which arise in the United States. In England, for example, industries are mainly old and established. Here a large part of our essential production is carried on by new enterprises, constantly developed by the initiative of our people in the midst of the opportunities afforded in a new country. As a continuing levy anything like the present rates would operate strongly to discourage and repress that inval-

able American initiative and enterprise. The repressive effect would, I am confident, cost the Government, even in revenue, far more than the additional yield of high rates. It would tend to force industries into stagnation.

Profiting, so far as we might, by the example of other countries, but, chiefly, being compelled to work out our own problems from our brief experience with direct taxes in the last few years, and after the most exhaustive study of industrial and financial conditions in this country, we have had to move slowly and steadily along firm ground where the topography was fully known. The perils of theoretical schemes of taxation had to be avoided. Attractive in theory, a little study of these propositions shows that we might be embarking upon uncharted waters. I am inclined to the conclusion that it is impossible to work out any single theory of taxation that will lead to success. I have more faith in the lessons of experience and practice than in the teachings of theory. For instance, it is urged that the schedule of miscellaneous taxes is arbitrary, and the fact is that the schedule must be acknowledged to be historical, accidental, and experimental. Taxes of this kind can not be worked out on any single, definite plan, but must proceed in the light of experience; and yet the miscellaneous taxes which we have had during the past year seem to have worked out satisfactorily and without undue hardship, and I believe that the new schedules, which have been made as moderate as possible, and in most cases below the rates imposed in the House bill, will, as temporary taxes, go equally well.

On the other hand, it has been urged that we should supersede by a single uniform and simple sales tax what has been described as a jumble of miscellaneous taxes, or, to pursue the theory to its logical conclusion, that we should adopt some kind of a turnover tax. I have yet to discover a workable plan for such a sales or turnover tax. For instance, one suggestion is that a tax of one per cent, levied on all sales made in this country, would be simple and yield nearly \$3,000,000,000 of revenue, but I fail to find that such a tax would be simple as alleged. In the case of some articles, for instance, which pass through several trade channels before reaching the ultimate consumer, the tax would be applied four or five times, while in the case of other articles reaching the consumer more directly from the manufacturer, the tax would be added, perhaps, only once or twice.

This inequality naturally would tend to create dissatisfaction on the part of the consumers. It would also operate as a great discrimination in favor of the very large industry, comprehending several different branches within itself, as compared with the small producer, who has to make use, perhaps, of other manufacturers, jobbers, and trade channels, for articles which the big concern supplies for itself. To meet these difficulties it has been suggested that the tax should be 1 per cent on sales at retail, which tax would yield about \$1,000,000,000. Confining the tax to retail sales would, it is claimed, work strange discrimination. Would the farmer be required to pay this tax on his plow if he bought it from the local hardware dealer? If so, he might be discriminated against as compared

with the large agricultural operator of the West, who buys perhaps 20 plows in a lot from the wholesale dealer. If, on the other hand, sales of articles used only for production, even when made at retail, are not to be taxed, and the tax is to be confined to articles used only for consumption, the tax becomes most difficult of administration and, unless put at a high rate, can not produce very much revenue. This plan for a general sales tax may have much merit and be worthy of careful future consideration, but up to the present time I have not seen any scheme concretely worked out and capable of just application.

PROPORTION OF REVENUE WHICH SHOULD BE RAISED BY LOANS AND TAXES.

In the same way it is well to avoid being beguiled by theories as to the proportion of revenue which should be raised by loans and by taxes. I have already referred to the difference in conditions prevailing among the nations immediately menaced by the war as contrasted with our conditions here. In this instance also it seems to me that the exercise of common sense, and the arrival at conclusions after a careful study of the facts, will bring better practical results than the pursuit of theories. We must look at the requirements of the Government and the condition of industry. In England the proportion of expenditures of the Government raised by taxation during the war years through 1917, including amounts loaned to foreign governments, has been estimated, I am informed, at a little over 22 per cent, while in France the proportion was smaller, being some 14 per cent. In contrast with this relation between loans and taxes it is interesting to note the similar relation disclosed in the present bill. The Secretary of the Treasury's revised estimate of actual governmental expenditures for the fiscal year ending June 30, 1919, is approximately \$18,000,000,000. It is estimated that this bill will, for a full 12 months' period, yield approximately \$6,000,000,000, or 33½ per cent. of the total of this vast expenditure.

Mr. SIMMONS. Mr. President—

Mr. PENROSE. I yield to the Senator.

Mr. SIMMONS. I infer from what the Senator has already said, although he has not directly expressed himself to that effect, that in his opinion 33½ per cent is about as much as we ought to raise by taxation.

Mr. PENROSE. That is my opinion; and it is much larger, I was about to say, than that raised by any other country in the world.

Mr. SIMMONS. I wish to ask the Senator this question: Assuming that the expenses of the Government for 1920 will be about \$7,000,000,000, in round numbers—the estimate of the department being between \$6,000,000,000 and \$7,000,000,000—the Senator would think that \$4,000,000,000 of that amount would be ample to raise by taxation, would he not?

Mr. PENROSE. If the estimates for the following year are correct, I should be entirely satisfied with that proportion. My contention is, however, that we do not know whether those estimates are correct or what our expenses will be.

Mr. SIMMONS. Let me ask the Senator: Suppose the expenditures, instead of being what the department estimates,

should be as large as the Senator from Utah [Mr. SMOOT] estimates—namely, \$10,000,000,000—then would the Senator still think that \$4,000,000,000 raised by taxation would be a sufficient amount?

Mr. PENROSE. If the Senator from North Carolina will wait a few moments I shall proceed to discuss what my idea is of the limit of direct taxes.

Mr. SIMMONS. I thought the Senator indicated 33½ per cent as his idea of the amount to be raised.

Mr. PENROSE. I do not think there is any magical figure. I was trying to show that we are levying by taxation, in relation to loans, considerably more than England and over twice as much as France. I was simply stating a fact. I hope to show as I proceed, if the Senator will permit me, what would be an answer to his question.

Mr. SIMMONS. I entirely agree with the Senator, that we are raising by taxation in this bill for the year 1920 a very much larger per cent than is raised by France or England.

Mr. NORRIS. Will the Senator yield to me for a moment?

Mr. PENROSE. I yield.

Mr. NORRIS. I should like to suggest to the Senator that the rule he lays down, however we may disagree on it, certainly would not apply to a time of peace.

Mr. PENROSE. I have not laid down any rule.

Mr. NORRIS. The Senator from North Carolina referred to 1920, a year after the war. When we are on a peace basis we will expect to raise all the money, and more, too, by taxation to run the Government.

Mr. PENROSE. I think so.

Mr. SIMMONS. That depends. It may be that we will be able to pay our war expenses during the fiscal year. Then our taxes will be comparatively very low next year, very much lower than the department has estimated and very much lower than the Senator from Utah has estimated. But if our expenditures for the year 1920 reach \$10,000,000,000 or \$7,000,000,000, it is clear that these amounts will greatly exceed the expenses of the Government in normal times. It is clear that in either event a large part of the expenditures will be war expenditures not paid during the war but paid after the war. The question is not when we pay them but whether when we do pay them we are paying war expenses as well as peace expenses. If we have to pay next year \$10,000,000,000 nobody would say that exceeding \$4,000,000,000 would be peace expenditures. The other \$6,000,000,000 necessarily would be war expenses that we have not been able to pay this year and carried over to the next year. Therefore they should be dealt with just as war expenses are dealt with this year.

Mr. PENROSE. I do not think there is any substantial disagreement. I concede that the war is not over by any means, so far as expenses go.

Mr. SIMMONS. Or if it is over, if the Senator will pardon me, we will not be able to pay our war expenses this year, and they will be carried over to another year.

Mr. PENROSE. Certainly; and further than that, Mr. President, the very large item in our war expenses is the enormous cost of the pay and maintenance of 2,000,000 men in France.



They can not be brought back immediately; neither can they be brought back without due regard for our responsibilities in Europe. I do not favor remaining too long in Europe and participating in their troubles there, but I am informed that the mere physical return of the troops will require six or seven months, or perhaps a year.

Mr. SIMMONS. The Senator certainly would not suggest that if our expenditures in the fiscal year 1920 are \$10,000,000,000 because we have not been able to clear up our war indebtedness, we should raise that \$10,000,000,000 by taxation?

Mr. PENROSE. Oh, no.

Mr. SIMMONS. Certainly not.

Mr. PENROSE. I simply wanted to call attention to the fact that these war expenses must continue this year and for another year. Some Senators sitting near me, who are conversant with the situation, say that it will take three years to bring the troops back, and that they are better paid than any soldiers in the world. We have run the war on a more expensive basis than any nation in the world, and we, of course, have these war expenses. At the same time I entirely agree with the junior Senator from Nebraska [Mr. NORRIS] that when we once get on a peace footing and war expenditures are abolished, taxes should then pay all the revenues of the Government.

Mr. SIMMONS. Undoubtedly.

Mr. PENROSE. As they always have in the history of the American Government.

Mr. SIMMONS. We ought then to cease bond issues. We ought to call upon the people to pay each year as we go after we get rid of these war expenditures. We can not afford to do it now, because if we should do it and the war expenditures carried over for future liquidation should be as great as indicated by some Senators, we would have to impose heavy war taxes upon the people of the country for years to come.

Mr. PENROSE. Mr. President, I do not think it has been amiss to have elucidated this point. I have received recently a large number of letters from people asking "why do we not proceed to a normal tax system?" They forget the war is not over and that demobilization has not as yet been achieved. This they ought to realize.

Mr. SIMMONS. I will interrupt the Senator just to say that I have had letters of that sort from people saying, "We are perfectly willing to pay these high taxes in time of war, but the war is over and these taxes ought to be taken off of us." That would be true provided that when the war is over we are rid of the war expenses—not expenditures that may accumulate in the future or after the war terminates, but expenses that may have accumulated or may accumulate during the war and that have not yet been met and can not be met during the fiscal year.

Mr. PENROSE. I think there are a very large number of people who have no conception of the expenditures of a war nature which the Government will have to provide long after peace shall have been declared, and I suggest this without advocating in any way a policy of prolonged and continued interference in European affairs. I simply stated that our relation of taxes to loans is one-third greater than that in England and



over twice that in France to show that the American people are standing a heavier tax burden in relation to loans than any of the allied nations from whom we have any definite information.

I am willing to go as far as anyone in raising as much of the war expenses of the Government as possible from current revenue. I am willing to set aside the argument for the present that posterity can well afford to pay the larger part of these expenditures, which ultimately will result in such tremendous gains for our country and for civilization. Neither will I now lay stress on the fact that even the indebtedness already incurred is small as compared with the resources of the country, and certainly is not to be compared with the similar debts of the allies, not to mention the damages and losses they have suffered. Our debt even now is easily borne and managed and, in a nation which is destined in the near future to grow in power and wealth by leaps and bounds, it is reasonable to expect its liquidation at a not distant period. But apart from all these considerations, there is one insurmountable limit beyond which we can not go in the way of taxation. It would seem that the argument is unanswerable that we can not tax the individuals and industries of the country beyond the point which can be endured without stagnation or destruction. Suppose we take the extreme argument that the greater part of all incomes, personal and corporate, be appropriated by the Government to defray the expenses of the war and demobilization. But one result would inevitably follow—the absolute cessation of all extension and development of business, the complete suspension of all work involving initiative and enterprise, the utter failure of business to expand or develop, or even to maintain the necessary upkeep for the conduct of industry.

It would fail to secure revenue because industry would cease to produce income. Therefore, assuming that we are willing to levy taxes to the limit of endurance, we can go only to that limit—and we can not pass it—at which corporations can retain sufficient funds to permit them to operate and individuals can still have left enough incentive to prompt that splendid initiative and enterprise which are the chief sources of the greatness of America. I am firmly convinced that the present taxes approach that limit. I am of the opinion that if we go much further we will overreach ourselves in the very object of securing the revenue we have in mind. Perhaps these taxes can be borne in view of the fact that they are temporary in their nature. They inevitably must be lowered in the following year substantially, and it is to be hoped that in a comparatively short period a system of direct taxes can be devised, together with a scheme for the refunding and payment of our national debt, which will place our tax system upon a reasonable and enduring basis so that the country may be able to proceed, carrying its burden, it is true, but carrying it cheerfully and bravely, in the tremendous task of reconstruction and development. After all, even if the taxes are high for this year, even if sacrifices have to be made and, in numerous instances, money has to be borrowed to pay the taxes and profits have to be postponed, the American taxpayers will be inspired by the same patriotism manifested by them throughout the war in their generous response to

each call for liberty loans. In their patriotism and sacrifice they have been second only to those who have given their full measure of devotion upon the field of battle.

#### PLAN OF TAXATION.

In discussing briefly the details of the bill I should like first to refer to the plan of taxation. This bill will, according to the estimates, raise from miscellaneous sources, principally beverages and tobacco, approximately \$1,370,000,000, and from incomes approximately \$4,600,000,000. The latter amount will be taken from corporate incomes estimated at \$10,000,000,000, and from individual incomes subject to normal tax (account being taken of the exemptions allowed) of \$4,700,000,000. When it is considered that a large part of the estimated income is not available for distribution or use as cash, but is, in a sense, paper income being tied up in inventories, plant equipment, and working capital, the weight of the tax burden imposed by this bill is apparent. The individual surtax rates attaining 65 per cent in addition to the normal tax of 12 per cent contrast with the highest figure adopted in England of slightly over 52 per cent, and with the figure of slightly over 12 per cent in France. The surtax rate of 65 per cent upon incomes of \$1,000,000 or over contrasts with the surtax rate of 50 per cent upon incomes of \$1,000,000 in Canada. A tax schedule which subjects any individual incomes to a total levy of 77 per cent is entirely without precedent in the history of taxation in any country. While England has had the war at her very doors, and was by way of the air actually invaded, this bill, as I understand it, exacts from the income of corporations at least as much as does the law of England, and on large individual incomes it levies the highest rates in the world.

#### RATES FOR FUTURE YEARS CAN NOT BE DETERMINED NOW.

The rates for future years can not be determined now. I had the report of the minority of the Finance Committee read before I began my remarks, and it is not necessary for me to go into this phase of the matter at any great length, but I should like to observe, in passing, that I do not see how it can be logically claimed that the rates for future years can be now determined. Strongly as I feel the necessity of reducing rates for the future, I do not believe that an attempt to provide for the future should be made in this bill, and the minority members practically all unite in this dissent.

Mr. SIMMONS. Mr. President, will the Senator from Pennsylvania pardon me?

The PRESIDING OFFICER (Mr. MOSES in the chair). Does the Senator from Pennsylvania yield to the Senator from North Carolina?

Mr. PENROSE. Yes.

Mr. SIMMONS. I have in my hand, given to me by the clerk of the Appropriations Committee of the Senate, the estimates of all the departments for the year 1920. The House Appropriations Committee has those estimates, and is now framing the bills based upon them. The proposed bills have been sent to the Committee on Appropriations of this body in advance of their action upon them. I suppose there must be some way in which the departments can determine beforehand with reasonable definiteness what would be the expenditures.

Otherwise, they could not present these figures to the two bodies of Congress as the basis of appropriations for 1920.

Mr. PENROSE. Mr. President, I have no doubt the departments have made estimates, and doubtless they have made outside estimates of far more money than they will be called upon to spend. I do not have very great confidence in the estimates of the departments at this time; in fact, during the last two years the frequently changing estimates handed in by the departments have shaken my confidence in them altogether in this connection. I am willing to make due allowance for the rapid changes which have occurred from day to day and from month to month during the war period; but I know the Secretary of the Treasury came to the Finance Committee, and has come during the last year and a half, with an estimate one week and that in another week four or five million dollars more were added, and then more, until I for one, I will say candidly, did not know "where I was at" or what I could expect.

Mr. SIMMONS. Mr. President, the Senator from Pennsylvania will recall that, while what he states is true, when the Secretary of the Treasury came before the Committee while we were framing the present law and stated that the estimates had been increased since they were originally made by the War Department and the Navy Department, still he did not ask for any more money by taxation; that he did not think they would need to levy heavier taxes upon the people.

The Senator will also recall that this year, while the committee was engaged in revising the pending bill, long before the armistice, the departments brought in some very considerable additional estimates after the appropriation bills had been passed; and, under the direction of the committee, I inquired of the Secretary of the Treasury if he would ask that more money be raised by taxation as the result of those additional estimates, and we were advised that he would not ask any additional sum by way of taxation.

I think it is quite likely that, in addition to these estimates of appropriations of \$7,443,000,000—and the estimates of the actual expenses are less—later the departments may come in and ask for more. They are not so likely to do that, however, as they were in the time of war, because then we were constantly increasing and enlarging our program, calling for more money. They may come, and probably will come; but, as I understand from the testimony of the Secretary of the Treasury before the committee, even if the appropriations hereafter should exceed those asked for by the departments, \$4,000,000,000 would still, in his judgment, be enough to raise by taxation during the year 1920.

Mr. PENROSE. Mr. President, has the chairman of the committee the estimates on his desk?

Mr. SIMMONS. Yes; I have the estimates of appropriation and I can give also the estimates of expenditures here, and I will put them in the Record if the Senator so desires.

Mr. PENROSE. I should like to have them put in the Record, and I should like to ask what the total is?

Mr. SIMMONS. The total estimate, including postal, regular, permanent, and indefinite appropriations is \$8,089,667,298.07. Deducting from that the postal revenues \$358,307,577, and the

sinking fund requirement of the present law, which is \$287,943,883, leaves a total of \$7,443,415,838.07. I ask that the table of estimates be inserted in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table referred to is as follows:

*Estimates of appropriations 1919-1920.*

Agriculture-----	\$30,048,786.00
Army-----	1,916,905,572.16
Diplomatic and Consular-----	11,042,236.66
District of Columbia-----	15,928,819.00
Fortification-----	574,237,273.30
Indian-----	11,939,813.89
Legislative, etc-----	116,021,816.83
Military Academy-----	6,032,862.70
Navy-----	2,644,307,046.05
Pension-----	220,050,000.00
Post Office-----	358,307,577.00
River and harbor-----	15,870,500.00
Sundry civil-----	902,231,235.48
Total regular estimates-----	6,822,923,539.07
Permanents and indefinites-----	1,266,743,759.00
Total regular and permanents and indefinites estimates-----	8,089,667,298.07
Deduct:	
Sinking fund requirements-----	\$287,943,883
Postal Service, payable from postal revenues-----	358,307,577
	<hr/>
	646,251,460.00
	<hr/>
	7,443,415,838.07

The estimated expenditures 1919-1920 are:

The Treasury estimates of actual expenditures for the fiscal year, 1919-20, amount to, in round numbers, about \$6,250,000,000.

Mr. WARREN. Mr. President, may I inquire at what time those estimates were submitted?

Mr. SIMMONS. Of appropriations? The clerk of the Appropriations Committee of the Senate handed them to me this morning and told me they were the estimates sent in.

Mr. WARREN. The Senator does not know how lately they have been prepared?

Mr. SIMMONS. No, I do not; but they are before the committee now. I take it.

Mr. WARREN. Of course the Senator realizes that they are only an approximation at the present time.

Mr. SIMMONS. That is so always.

Mr. WARREN. It is so now more than ever before. It is so now even more than if the war was still on.

Mr. SIMMONS. I disagree with the Senator about that. I think in times of war, when we were constantly changing our program and increasing expenditures from day to day, developing new plans and new schemes, we were likely to have a great many more additional estimates over those at first sent in than we are now when the war is over and we are drifting back toward normal conditions.

Mr. WARREN. Unfortunately, the war is not over yet; and, on the other hand, there are many thousands of contracts in connection with which an attempt is being made to secure legislation to effect a settlement. They amount not only to millions of dollars but to billions of dollars; and, of course, it is a matter of uncertainty at the present time to estimate what



it is going to cost to secure a settlement where a contract is sought to be canceled by the Government and where the rights are with the other contracting party who must be bought off.

Mr. SIMMONS. My understanding is that the departments, in making their estimates for expenditures for the fiscal year 1919, in cutting down and determining what they can save, have taken care, so far as they could in their estimates, of the probable expenditures as a result of the cancellation of contracts; so that I do not think that will figure very largely in the matter.

While, of course, there is some uncertainty about these estimates, I think there is less uncertainty about the estimates for 1920 than there is about the estimates for the present fiscal year. I am firmly convinced of that; and, while we are going to have, as the Senator says, to pay some damages for the cancellation of contracts and things of that sort, we are going to have also an immense salvage account this year that will result in bringing a large sum of money into the Treasury.

Then, Mr. President, we ought to consider, too, that we are going to have as soon as the war closes nearly \$10,000,000,000 in the bonds of the allies, the best securities in the world, because, whatever might have been said about French bonds and about English bonds and Italian bonds in case the allies should have lost this fight, now that they have won there can be no question about the solvency of those securities and about their high class. Of course, those bonds are marketable, and we can utilize them for the purpose of relieving the people from excessive taxes in the future.

More than that, Mr. President, I want to say now, if the Senator from Pennsylvania will let me trench upon his time sufficiently to say it—

Mr. PENROSE. Certainly.

Mr. SIMMONS. I will say now that I do not believe that the people of this country are going to consent that the central powers shall escape without duly and properly reimbursing this country for the great losses that have been inflicted upon it by the methods which they have pursued in this war. I do not know whether the central powers will be able to pay the demands that are made upon them by the allies and by the United States; but whatever those demands are, based upon the capacity of that country to pay—and that ought to be the only limitation—the United States must have the same percentage of its losses allowed as the other allies, with the possible exception of France and Belgium. That will bring us a large fund; so that in the end, Mr. President, considering the bonds which we shall get from the allies and which we can market whenever we desire to do so—amounting to nearly \$10,000,000,000—and considering the money we shall get by way of reparation and indemnity from our defeated foes, I think that the burden of war taxation will, in the last analysis, not be so heavy as we now sometimes think it will be.

While the proceeds of bonds and reimbursements may not entirely wipe it out, our war expenditures, I hope, Mr. President, as the result of the marketing of these securities and the application to our indebtedness of this indemnity money, that in the course of a few years the burden of indebtedness that the



United States has incurred on account of the war will be largely recouped, and that the people of this country can be relieved of taxes to pay these obligations in the coming years to the extent of that recoupment.

Mr. PENROSE. Mr. President, I have no doubt the departments have made their estimates and recommendations to the committees of the House of Representatives and to the Secretary of the Treasury; in fact, they could not very well avoid so doing. That had to be done. I only want to repeat, however, that in the last year and a half I have had all confidence shaken in the estimates of the Treasury Department, because they have been constantly changing in the direction of greater and greater expenditures. I make the criticism most respectfully, because I know that events have been piling up in an extraordinary fashion, and perhaps no one could predict with any accuracy what the requirements would be. For the very same reason I claim that in the period to come, stored as it is with portentous possibilities, we can not count on any accuracy in these estimates.

I do not believe, Mr. President, that the Treasury Department or any of the heads of departments can, with the least approximation to accuracy, tell what the revenue requirements of the Government will be for 1920. No one can surely predict the conditions which will follow during a period so stored with great events. To just what extent taxes can be reduced in the future and by what method can not now be told. These difficult questions should be decided in the light of the latest and most complete information as to actual business conditions and revenue requirements. The only argument advanced in favor of this legislation for the future is that the taxpayer should receive certain assurances as to his situation for the following year, but it is impossible to give him any positive assurance when future conditions are entirely unknown. In any event, every business man in the country knows that the taxes imposed in this bill inevitably must come down, no matter what happens, and the only real question presented is as to the details and methods of taxation. Therefore, practically all of the minority members of the Finance Committee are united in dissenting from the 1920 provisions of the pending bill and leaving it, so far as incomes and profits are concerned, as a 1918 measure, to be amended by a subsequent Congress only when we can ascertain what the Government needs and what the country can stand.

#### WAR EXCESS PROFITS TAX.

I desire now, Mr. President, to discuss in detail a few of the most important and novel features of the pending revenue bill. To one of these I want to refer especially, and that is the war excess profits tax. The plan adopted by the committee avoids the alternative scheme appearing in the House bill. I do not know that I can define better what the committee has done in this respect than to quote from the report of the committee as follows:

"The House bill provides, in effect, alternative war-profits and excess-profits taxes, the taxpayer to pay whichever is the higher. To this plan grave objection was made on constitutional grounds and because the scheme was troublesome to the

taxpayer. The plan was also criticized as conferring undue discretion on the Treasury Department.

"In place of this alternative scheme the committee recommends a single war excess-profits tax, which is mathematically equivalent to an alternative plan at the same rates. It unifies the two taxes by the simple device of including the war-profits tax as an additional bracket of the rate schedule.

"The committee has also simplified and reduced the rates of the excess-profits tax adopted by the House. The rates imposed in the House bill were 35 per cent of the net income in excess of the excess-profits credit (\$3,000 plus 8 per cent of the invested capital) and not in excess of 15 per cent of the invested capital; 50 per cent of the net income in excess of 15 per cent and not in excess of 20 per cent of the invested capital; and 70 per cent of the net income in excess of 20 per cent of the invested capital. The committee proposes in lieu of the House brackets of 35, 50, and 70 per cent two brackets of 30 and 60 per cent, with no change in the deduction or 'excess-profits credit.' The third bracket of the committee plan is, as stated before, simply the war-profits tax of 80 per cent."

It will thus be seen that the plan adopted by the committee avoids the alternative scheme appearing in the House bill. It will also be noted that the committee has reduced somewhat the rate to which corporations having no excess of current earnings over prewar earnings will be subject. There is retained upon the excess of earnings, over prewar earnings, the rate of 80 per cent. This extremely high rate, however, by no means applies to all of any corporation's income. Protective deductions have been carefully provided.

These deductions, meant to assure to corporations, free from excessive tax, some return upon the capital of every corporate enterprise, depend largely upon the computation of "invested capital." Last year's law, in which was begun the experiment of a special profits tax, made use of this invested capital conception. Variations in methods by which enterprise has been financed, in the nature of business properties, in the history of the development of different businesses, in methods of accounting, and in methods of stock issues, as well as in the relation of stock issues to bond issues, have been so great that it was found impossible to apply any single definition of invested capital. Acting under certain clauses of the law of 1917 the Treasury Department wisely worked out various relief provisions which, in the enforcement of the statutory plan, operate to prevent intolerable discrimination and excess in assessments as between taxpayers. The House bill, notwithstanding the great increase in the rates of the profits tax, did not embody a number of these protective provisions. Without attempting to go into detail I can assure the Senate that all of the protective and relief provisions worked out by the department from its actual practice have now been embodied in the bill. These relief provisions, far more necessary than before the adoption of the higher rates, will, I am sure, continue to prevent injustice as between different taxpayers and will temper the apparent severity of the letter of the law.

The question of subjecting individuals and partnerships to the war excess-profits tax was given very ample attention

and consideration by the committee. Their exemption from this tax is an apparent discrimination against industry which happens to be carried on under the corporate form. I became convinced, however, that because of the high surtax rates to which individual incomes are to be subject, even where derived through partnerships, this discrimination is more apparent than real and that the difficulties of placing individuals under the tax are insuperable. I am the more reconciled to this conclusion because of my belief that in the interests of the economic and fiscal welfare of the country any special profits tax, however labeled, ought, in the near future, to be altogether abolished. In its place should be substituted some carefully worked-out scheme of general and uniform taxation upon income. The Secretary of the Treasury has urged the giving up of any vestige of the excess-profits tax in this very bill, although his recommendation has not been supported by the majority of the committee. His views, however, as to the repressive and discriminatory character of a so-called excess-profits tax are entitled to the most careful consideration.

INCOME TAX ; ADEQUATE RECOGNITION OF LOSSES—SHORTAGE IN INVENTORY VALUES.

The nature of the income tax is readily understood, and it is of the new and ameliorative features only that I wish to speak. I should like now to call attention to the admirable amendments looking to adequate recognition of losses. I call attention particularly to the amendments relating to shrinkage in inventory values concerning which very many communications were received from taxpayers by the committee generally, and by the individual members thereof. Under the present law income for a single year is subjected to the full rate of tax without regard to the past or future financial operations of the taxpayer. If in the previous year, however, the taxpayer now to be taxed sustained a loss instead of making a profit it is clearly unjust to tax this year's profits without letting him first make up last year's loss; and if for the next year he should show a loss instead of a gain it seems just again to permit him to apply against his previous year's income the amount by which his outgo exceeds his income. In other words, in enforcing high rates of tax there should be taken into account the taxpayer's operations over some series of years and not merely his operations for a single year in which special conditions may prevail. What is in effect averaging of income is permitted by the special provision as to net losses in section 204 of the bill.

This provision, Mr. President, was discussed yesterday afternoon in the Senate, and I do not think those who were disposed to criticize it fully understood its purport and meaning. There is no doubt that it is a very liberal provision, and that it will entail a loss of revenue; but, as I said earlier in the discussion, the loss of revenue is no argument to my mind if it is a question of gross inequality and inequity, or if the revenue is to be raised by taxing a man who has suffered only losses, and I am glad that the Senate sustained the committee and retained this paragraph in the bill. Why, Mr. President, even with this provision in the measure, much anxiety still prevails all over the country upon other questions of losses, and I ought to say here that these provisions are not in the interest of the so-called very

large corporations. They produce under the most favorable conditions and do not have the lean years. These relief provisions to which I am about to refer are distinctly and preeminently in favor of the small taxpayer from one end of the land to the other. The great concerns could proceed on their way very cheerfully without any of these provisions; but it is the average man doing business, whether as a dealer or as a manufacturer, who has his inventories of stock, or who requires relief along other lines to which I shall now refer, for whom these relief measures are intended. There was no occult purpose in devising them to enable anyone to escape taxes, or to favor any class of industry, individuals, or section of the country. The man dealing in wheat in the West, or keeping a grocery store in a small town on the plains, is perhaps more directly and keenly interested in this and the other relief provisions than the great, big concerns in metropolitan centers.

Mr. GRONNA. Mr. President, will the Senator yield?

Mr. PENROSE. I will.

Mr. GRONNA. There were two questions debated yesterday, if I remember correctly. The first one was the question of making the inventory. Of course, as I understood, there was really no objection to the change in regard to that.

Mr. PENROSE. I had no objection. I do not know whether the Senate adopted the Senator's amendment or not. I do not recall.

Mr. GRONNA. I withdrew my amendment for the present because I was assured that the amendment proposed by the committee would in effect take care of the matter. But I rose to call the attention of the Senator to this fact. I know he does not intentionally wish to confuse the two subjects.

Mr. PENROSE. No.

Mr. GRONNA. There are really two distinct and separate subjects: The question of taking the inventory based upon a fair valuation or a market valuation was one, and the question of being permitted to make reductions on losses sustained in the years past is a distinct and separate question, as I understood it.

Mr. PENROSE. I think I understood the Senator from North Dakota, and in making this brief reference to the opposition which occurred yesterday I did not mean in any way to oppose the Senator's amendment, nor did I have the Senator's amendment in mind, I may say. I had more in mind the actual vote which occurred on the question of sustaining the committee when some 15 or 16 Senators saw fit, as was their right, to vote against the committee. I only wanted to say that I feared the character of the amendment, by reason of the brief debate in the absence of full explanation and statistics, might not have been fully understood, as is often the case.

Mr. GRONNA. As the Senator knows, there was no vote taken on the amendment which provided for making reduction in the inventory; that is, there was no objection to it. The objection was to another section which provides that any losses sustained in past years may be deducted in the future.

Mr. PENROSE. Then, no doubt, my reference was a little misleading. I should have said that objections to measures of relief of this peculiar character, perhaps, have not been fully understood, and hence there arose the suggestion of criticism



to an amendment of this kind. That is what I should have said to make myself clear.

Many taxpayers, however, have expressed a fear that this new provision does not fully prevent injustice through taxing profits largely dependent upon inventories of goods at war prices when the value of these goods may suffer a sharp decline. The committee could not agree to permit reserves necessarily arbitrary against inventory values, but did provide, in section 214 (9) and 234 (13), that if after any year's profit has been calculated a loss is for the first time ascertained, due to the shrinkage in the level of inventory values or other similar cause, there may immediately be an adjustment of the tax for the past year, allowing full recognition of this loss, even though not sustained through actual sales.

#### AMORTIZATION.

A source of much anxiety to concerns which have attempted to respond to the need of the country, and even upon the demand of the Government for increased production of articles contributing to the prosecution of the war, are the losses which they face through the shrinkage in value of equipment and plants acquired at unprecedented cost and likely to prove of little or no value under established peace conditions. The House bill provided that in determining the taxable income of such concerns there might be deducted from gross income reasonable allowances for such shrinkage in value estimated or actually sustained. In the House bill this allowance was, without apparent justification, limited to 25 per cent of the net income otherwise taxable.

#### DEPLETION.

The committee gave very careful consideration to the question of depletion. The just taxation of incomes derived from the operation of mines and of oil and gas wells is a particularly difficult matter. This is due to the fact that part of what apparently is income is in reality a mere return of the capital of the enterprise. When, for example, a ton of coal is sold the excess of what is received from the cost of mining of that ton of coal is by no means all income; part of that excess must be treated as a repayment of what was invested in the mine from which the coal was taken. Such allowances for the extractive industries are covered by the depletion provision. The committee changed the language of this provision to assure continuance of the recognition of valuation of deposits as of March 1, 1913, as the basis for the deduction in the case of all property acquired by the taxpayer on or before that date. In pursuance of a policy permitting, so far as practicable, the development of new resources of this character they also provide for a more liberal allowance than heretofore permitted in the case of newly discovered mines, or oil or gas wells, permitting the deduction to be based on the fair market value of property discovered instead of its cost.

#### CONSOLIDATED RETURNS.

A very important provision worked out by the Treasury Department in its administration of the excess-profits tax for the past year, but which was expressly rejected by the House, is that relating to consolidated returns. In carrying its business in different States, and also in carrying on different but closely



related lines of business, it has been found necessary to employ the medium of a number of different corporations, substantially all of the stock of which is held by one company or by the controlling individuals. It is impossible to determine the true profits of such a combined enterprise except by treating the enterprise as a unit and disregarding the incidental placing of different branches in legally separate corporations. Nonrecognition of this unity in getting at true income may prevent the Government from subjecting the full income to tax or may result in subjecting the enterprise to undue tax. The committee has, therefore, embodied a provision requiring consolidated returns of income of affiliated corporations. Such returns are to be used not merely for the purpose of calculating profits tax but for the purpose of calculating the 12 per cent income tax. This section represents a determination to deal justly with business, whatever its form of organization, and to prevent business from escaping just tax by shifts in its form of organization.

#### NO DIFFERENTIAL TAX ON CORPORATE INCOME.

The committee could not be persuaded that there was any justification in the differential tax on corporate income. The provision of the House bill imposing an 18 per cent rate upon all of a corporation's net income, except the portion used for the distribution of dividends, for the payment of indebtedness, and investment in Liberty bonds, was entirely objectionable. It would have operated to put a premium on improvident and reckless corporate management, and to subject to penalty those conservative methods of business administration which have characterized the most wisely handled corporations. It was a direct tax upon corporate thrift. The committee has wisely abolished this differential and restored a flat rate of tax upon corporate incomes.

#### INHERITANCE TAX.

The taxing of estates is, to my mind, properly a matter for the States and not for the United States Government. The States are faced with the burden of raising more revenue than ever before. Sooner or later the collision between the States and the Federal Government in the field of jurisdiction over taxation is bound to become serious. I was impressed with this thought when I referred to the situation in a speech I made in the Senate in the summer of 1916 upon the then pending revenue bill, when I called attention to the situation which was then already developing. I will ask the Secretary to read a brief quotation from my remarks at that time on the subject.

The PRESIDING OFFICER (Mr. TRAMMELL in the chair). The Secretary will read as requested.

The Secretary read as follows:

"The States of the Union and the large municipalities therein all require large revenues for purposes not thought of a few years ago. Our municipalities are nearly all heavily in debt, and are in most cases restricted to a limited field of taxation. The municipal needs, however, are ever enlarging in a constantly increasing ratio without any prospect of relief from debt or the securing of revenue to meet the demands necessary for projects in the interest of the health and well-being of the citizens. The States themselves and the cities therein are

called upon to maintain elaborate boards of health, systems of sewage disposal, continually increasing requirements of educational and eleemosynary institutions, and, over and above all, to cite one instance of development to an extraordinary degree of magnitude in the last few years, the imperative demand for good roads has caused an expenditure running into a staggering amount of money in the aggregate from one end of the country to the other.

"Now the States are expressly excluded by the Constitution from levying duties or imposts, and are obliged to resort to the various well-known forms of State taxation of a direct character. The Federal Government, under the doctrines recently advanced that no taxes should be imposed upon articles of consumption and, apparently, that as little revenue as possible should be collected from imports, encroaches upon the field of direct taxation belonging to the States and abandons a source of revenue from the customhouse to which the Government has the exclusive right. This seems to me illogical in principle and unfair in practice. The ultimate effect necessarily following is that the State revenues will be greatly limited, if not impoverished, and the outlook for many of our municipalities from a financial point of view is not very hopeful."

Mr. PENROSE. The situation now, of course, is very much worse than it was in 1916, when direct taxes were comparatively light. If the Federal Government keeps on piling up taxes and infringing upon the tax domain of the States one result must inevitably follow, and that is that the Government ultimately will become wholly centralized and State governments will become practically abolished or rendered ineffective for lack of revenue. Projects like road building, which the States will no longer be able to maintain, will have to be assumed by the Federal Government and the whole spirit and structure of American institutions will be altered, if not destroyed. I am one of those who still retain a respect for State sovereignty, and for the maintenance of the integrity and activities of the States. The country is too big now, and will soon become very much too big, to render it in any way safe to maintain a centralized Government over our continental domain. The safety valve for our institutions and our development is to be found in the maintenance of the sovereign States with their powers and jurisdiction. These questions of vital moment must be met at an early date, and the sooner we meet the issue by dropping from Federal revenue laws, as a preliminary of good faith and fair purpose toward the States, the Federal taxes on inheritances, the quicker will the Federal Government give an assurance of a disposition to finally adjust these questions of divided authority upon equitable lines.

The Federal Government, of course, has little to do with the transmission of the estate. The heir of the decedent finds his only title to the possession of the estate in the laws of the State, and he only secures the transmission of it through the courts and other officials of the State. Hence, this tax technically and preeminently belongs to the States, and if we are to begin upon some program by which the States may have jurisdiction over some taxable matters, not interfered with by the Federal Government, let us begin now with the inheritance taxes, where the justification therefor is admitted from every

legal and practical point of view. Moreover, even at the best, the inheritance taxes, especially if heavy, are bad from an economic point of view because they are a tax on capital and not on income, and it is generally admitted not to be sound policy to tax capital but only income. Moreover, the multiplication of these inheritance taxes tends to destroy altogether properties built up by lives of hard productive effort and which are industrially essential. The tax subtracts from the capital account of the country, and if carried too far will tend largely to destroy any incentive for individual initiative or enterprise. The only argument I have heard advanced in favor of it as a tax for the Federal Government under normal conditions is that most of the fortunes in the country are the result of gains from enterprises scattered all over the country, but if this is to be an argument for Federal taxation it would apply equally as well to the owner of a corner lot in a city or to a farmer who sells his grain. There is hardly a municipality in the country where real estate values are not increased by the general growth of the whole country, and the increase of population, and clearly the western farmer sells his grain wherever he can find a market, and his farm products naturally increase in value with the growth of populous centers, the increase in industry, and the greater demand thereby created. The fact is that if there is any justification for the tax at all at this time it is found only in the argument that we have been through a war and have still many great expenses to meet, due to demobilization, and the Government needs the money. Therefore, these taxes may be temporarily tolerated even if they do come on top of State taxes already in many cases large.

I am calling attention to these facts, and I suppose that under the circumstances these taxes will remain in the bill. Such a tax was used at the time of the Civil War and at the time of the Spanish War and, as I have said, may be defensible on the ground of the war. I do maintain, however, that if there is to be any tax the rate should depend not on the size of the estate as a whole, as it does under the present law and in the House bill, but so far as possible on the amount of the individual share of each person participating in the division of the estate. The new inheritance tax plan which the committee has worked out is much fairer and sounder than the estate tax plan in the House bill. The rates adopted in the House bill mean nothing short of confiscation and destruction. To pay to the Government 40 per cent of the amount of an estate would often mean that to raise this amount of money the other 60 per cent of the estate would have to be sacrificed and lost altogether. In any case the difficulty of settling an estate within a reasonable time after the death of the decedent frequently is very great and, in some instances, nearly insurmountable. Undeveloped enterprise, largely dependent upon the genius of the promoter, and forming a considerable part of a large estate, not to mention real estate and many other assets which can not be immediately disposed of without a very great loss, illustrate in a general way the difficulties encountered in bringing about any settlement in order to adjust taxes within any reasonable period. The rates adopted in the committee amendment are more of an approach

to reason, and provision has been made for more liberality in the time of paying these taxes.

Public institutions and charities have been hard hit by the war. In this country educational and charitable institutions carry on in a large measure what essentially is public work. That our educational and charitable institutions have been largely founded and maintained by individual gift and bequest has been widely commented upon by publicists in every land. In this respect we differ much from older countries where State appropriations have largely aided in this work. That in the United States they have been built by private enterprise furnishes a peculiar illustration of the qualities in American civilization which have made our country great. Contributors to these institutions have been remarkably loyal but under war conditions and with the high rates of income tax they could hardly have been expected to have done as well as in times of peace. The provision of the committee inheritance tax amendment exempting from tax transfers to the Government or for any religious, charitable, or scientific purpose is to be commended particularly. The Government of the United States should not collect a cent of tax by reason of the death of any soldier or sailor. A man who dies for his country should not have to divide with his country his estate. The committee amendment properly exempts the property of soldiers and sailors.

#### CONSUMPTION TAX.

I shall refer briefly to the consumption or sales tax, so that some idea may be had of the character of these schedules. The committee fortunately found that the financial needs of the Government would not require the raising of \$8,000,000,000 but would be satisfied with a \$6,000,000,000 bill. This reduction to my mind furnishes a very striking illustration of the wisdom of the deliberation and care with which the committee considered the measure. It had been freely predicted by the Treasury Department early in the summer that unless the bill passed by September 28 the liberty loan would fail. Instead of any such prediction being fulfilled the loan was oversubscribed and the taxpayers of the country have been saved \$2,000,000,000 of taxes, which would have been imposed upon them had haste been the order of the day. The fact that only \$6,000,000,000 was found to be required after the armistice gave the committee some leeway in adjusting many of the taxes, although the opportunity for such reduction was not so great as would appear, because the revenue loss due to prohibitory legislation was estimated to amount to at least \$1,000,000,000 for a full year after prohibition becomes effective; but even with this circumstance the committee was able to do something to relieve the burdens of the bill. The committee reduced the proposed rates on tobacco by, roughly, 25 per cent below the rates in the House bill. Tobacco is a recognized subject for taxation, and has been one of the stable sources of revenue in all civilized governments for many years. I believe the rates in the House bill had been raised beyond the maximum revenue-producing point and would have curtailed and unsettled the industry. More revenue will be raised at the reduced rate, on account of the greater consumption.

The committee struck out the new tax on gasoline, and left to the States, which maintain the roads, many of which



have been destroyed by the use of Government trucks and vehicles, the field of the automobile license tax. The committee further eliminated the 20 per cent tax on many articles of clothing and apparel. As a further example of the committee's reductions, the tax on the manufacture of automobiles was made 5 per cent instead of 10; on pianos and organs, 5 per cent instead of 10; on chewing gum, 3 per cent instead of 6, while the tax was entirely struck out on some of the proposed new subjects of taxation, such as contained in section 905.

The committee, on the other hand, retained the 3 per cent tax on freight charges, the 8 per cent tax on passenger charges, the 10 per cent tax on admissions and dues, and not only retained but increased somewhat the taxes on certain lines of manufacture while retaining the stamp taxes and increasing some of the miscellaneous special taxes on different occupations. This course seemed wise and just. When the Government comes to raise billions by taxation it is essential that it rely upon more than one method of taxation. Just now the tariff can not play the part it did in former times. Taxes on sales, freight bills, and theater tickets do, however, operate to spread out this tax burden. When the attempt is made to raise by tax on incomes \$4,600,000,000 a very great, if not too much reliance and weight are put on one form of taxation. Continued for more than one year such rates of tax would endanger the whole social and industrial fabric. It is, therefore, absolutely essential, in my judgment, to use and retain beside the income tax other methods of raising the enormous amount of revenue.

#### MEASURE RESULT OF CAREFUL THOUGHT.

I have already referred to the admirable character and work of the Tax Advisory Board. Other administrative features also received careful study by the committee. Every effort was made to make the law clear, and capable of prompt and just enforcement. Of course, I do not maintain, as I have already stated, that this measure is by any means perfect. I do say, however, that it has received more careful thought by far than any previous internal revenue bill in this country, and that it is more clearly and consistently drafted, and supplied with wiser administrative provisions than any other measure. I can not disguise the fact that I feel anxious as to the effect upon the country of the attempt to apply such higher rates of income and profits taxes as are provided in this bill. It is to be remembered that all this weight of Federal taxation comes on top of the enormous levies of State, municipal, and other taxation, the burden of which I had occasion to refer to at length during the consideration of past revenue bills in this body. Yet, in their application upon incomes and profits for the war year the only limit to Federal rates that I recognize is dictated by the necessity of preserving our industrial fabric from stagnation and even destruction. With the demobilization of our Army and the return of our 2,000,000 soldiers, it is, of course, imperative to maintain industrial activity unimpaired, if only for the purpose of furnishing employment. My belief is, however, that the collection of such taxes for the past year only, at the rates fixed by the bill, will probably in most cases not injure or destroy the business



or financial structure, although ruin would result from a continuance of such rates in future years.

I am also convinced from interviews and communications on the part of several thousand taxpayers from all sections of the country during the consideration of this bill that the great body of intelligent and patriotic business men and taxpayers throughout the land are willing to accept these rates and desire the measure passed. I have never heard a suggestion or utterance from them which was not keyed in the note of highest patriotism and willingness to make every sacrifice. The war has terminated with success far beyond our expectations. The taxpayers of the country will experience the patriotic satisfaction that the revenue which they will pay will have gone toward contributing to this success. They know that the manhood of the country has paid a price infinitely beyond any that can be measured in money, and they are willing for the year of the war to show some of that spirit of sacrifice which has animated and distinguished our Army.

#### TARIFF ASPECTS.

I have not touched upon the tariff question in my effort to explain as concisely as may be my views upon the bill. My chief difficulty has been to condense. The materials at hand are so voluminous and the subject of such an encyclopaedic character, involving questions which strike at the very roots of the industrial system, that it would be impossible within any reasonable limits to discuss these questions in the way I would like and as their vital character would justify. They are full of significance and interest, fraught with importance to our reconstruction program, but their fuller discussion must await another day. I will say, however, that it was obvious to everyone, including consistent protectionists, that in the revenue bills coming up for consideration since the beginning of the war in Europe it has been impracticable to consider a protective tariff. The whole world has been upset and the normal course of trade, domestic and international, has been diverted from its natural channels. To have raised a portion of the revenue by a general ad valorem or specific duty on imports would not have contributed any substantial amount of revenue compared with the vast sums required, and naturally would have caused grave embarrassment to those engaged in manufactures into which these imported products entered. Further, in the midst of these upset conditions and in the limited time permitted for providing for our urgent financial needs, together with the diversity of opinion which, naturally, prevailed in the last three Congresses as constituted, it seemed obvious to everyone that it would be impossible to carry out a protective tariff scheme by levying a compensatory duty all along the line up to the finished product, without which a protective tariff is injurious and destructive.

Hence, I think nearly everyone conversant with the situation, no matter how consistent and strong his theories on protection for American capital and labor have been, has exhibited common sense and conservatism in not even attempting the discussion of these questions. The country has submitted cheerfully to a very heavy burden of taxation new and without precedent, and not alleviated by revenues which, ordinarily, would come

from the customhouse. But I want to refer in passing to the fact that had it not been for the protective policy of the United States for a period, with slight interruption, of nearly 60 years we would not have had established that vast industrial system, built upon firm foundations, capable of meeting every requirement, and which has enabled us to furnish promptly to an incredible extent the munitions of war for the allies and for ourselves. It is well to pay a passing tribute to the splendid achievements in the field of American industry and to express the hope that at the proper time a tariff system will be adopted which will maintain all American activities intact and prosperous from one end of the country to the other.

#### INDUSTRIAL MIGHT DEVELOPED THROUGH TARIFF.

Next to our armies, the industrial might of America won the war. We must continue the same policy, especially as to war essentials, but, after all, everything is essential that contributes to our economic independence if we are to be prepared for war. I take it that hereafter almost everybody will advocate a proper protective tariff for the reconstruction and preparedness of the American people. In this legislation, however, we must await developments and be prepared to maintain America's industrial independence and uphold American standards of civilization as against all the world. We must, above all, in coming to our final conclusions on a fiscal policy, reduce expenses. Economy must be the watchword; curtailment, retrenchment, and careful legislative checks on expenditures must be the practice. We must demobilize our armies to the lowest limit of our continuing responsibilities. We must return to our national and hereditary vocation. All commerce and industry, prompted as they may be by ambition for personal gain, profit, and advancement, ultimately and really constitute the development of the arts and sciences, the elevation of the standards of men and women, the promotion of civilization, and the achievement through peaceful channels of the destiny of the human race.

#### EARLY PASSAGE OF BILL URGED.

Undoubtedly many defects in the bill will have to be provided for by remedial legislation in the future based on experience. It seems, however, to be the best measure that can be had at this time and unquestionably it is better than any preceding law. It is earnestly to be hoped that the bill will pass promptly. The suggestion has been made that if it fails perhaps the situation can be met by amending the present law for war-profits taxes, which procedure might meet the requirements. The fatal difficulty of this suggestion is, however, that the very valuable relief provisions in the pending bill would be lost. These provisions are, in my opinion, of inestimable value, and the more the taxpayer comes to know their full effect the more satisfaction he will feel. Moreover, it must be borne in mind that taxation has reached its peak. It is hoped that hereafter revenue bills will provide for steadily decreasing taxes. Profits taxes ought to steadily decrease and very soon disappear, and sufficient revenue for the conduct of the Government ought to be raised by a system of flat income taxes.

Mr. President, I have detained the Senate longer than I had intended, yet, as I have said, it is extremely difficult to know

where to stop or how to condense on a subject so absorbing and comprehensive as is this revenue question.

AMERICAN DEMOCRACY MET EVERY REQUIREMENT OF WAR.

I should like to say in closing, however, that when we consider how successfully we have gone through this war we can approach the future in full confidence, notwithstanding the many difficulties confronting us. Who can fail to be impressed with the magnificent way in which the American democracy has met every requirement? The united strength of the country has supported the war. We had in our midst elements from almost every nation in the world, many affiliated by ties of blood and even birth with the nations with whom we were at war, and yet, notwithstanding a vigorous and extensive enemy propaganda, especially among our alien population, the extent of disloyalty and disaffection has been quite small. In many of our largest munitions plants—I know it is the case in Pennsylvania, and I believe it is so elsewhere—a great proportion of the workers came from enemy countries and they have been among the most loyal and devoted. In fact, it would seem as if the great bulk of these people, perhaps not all of them as yet absorbed in what is called the American crucible, fully realize the value of the civil and religious liberty which they came here to enjoy. They have not only filled our munitions plants, but they have been found in full share in our Army.

Public sentiment has dictated the general policy of the war. It is a long journey from being too proud to fight through the transition period of peace without victory to the unconditional surrender and the armistice. Volunteer boards composed of our greatest men in industry and finance have saved a situation which otherwise would have been marked by inefficiency.

Perhaps the most notable achievement, exciting the astonishment of other countries, was our ability to pass the conscription law within a few weeks, a proposition abhorrent to every American tradition and sentiment, yet cheerfully acquiesced in and carried out while England only partially applied conscription, Australia failed altogether, and Canada only succeeded at a recent period in the war. In lesser detail many false, economic, and ill-advised methods were adopted, and autocratic powers unwarranted were exercised to the harrassment and vexation of the business world and most of the people. Yet the robust and sturdy strength of the American body, politic and industrial, withstood the bandages and panaceas of quacks and theorists, and was strong enough to achieve victory regardless of obstacles.

In view of the splendid achievements of a united people, brought about by an appeal to their intelligence and their patriotism, every American can experience restored confidence in the competence of an enlightened and intelligent democracy, and need have no fear that in this country, at least, there will at any time arise conditions in any way approximating those existing elsewhere, but that we will be fully able to solve the problems to come in the same intelligent and patriotic fashion in which we have succeeded in meeting the issues under the stress of the war.



